

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ERNEST EDWARDS,

Petitioner,

v.

Case Number: 05-CV-71105-DT

GERALD HOFBAUER,

Respondent.

ORDER DENYING REQUEST TO FILE NEW LAWSUIT *IN FORMA PAUPERIS*

Petitioner Ernest Edwards is a state inmate currently incarcerated at the Marquette Branch Correctional Facility in Marquette, Michigan. He has previously submitted various filings to the court which have been returned or stricken as improperly filed. Now pending before the court is a September 13, 2005 document, which the court interprets as a request that the court grant him leave to file a new lawsuit *in forma pauperis*. For the reasons stated below, the court will deny the request.

I. DISCUSSION

From previous filings, it appears that Petitioner seeks to file a *pro se* petition for a writ of habeas corpus challenging a conviction rendered in 1996 in Wayne County Circuit Court. (See 4/12/05 Order of Summary Dismissal at 1.) Petitioner has not filed the \$5.00 filing fee applicable to habeas corpus petitions. 28 U.S.C. § 1914(a).

Petitioner has been a frequent filer of civil rights complaints and habeas petitions in this District. In an order entered in a civil rights case filed by Petitioner in 1996, District Judge Lawrence P. Zatkoff reviewed Petitioner's history of filing complaints and

petitions in this district. See “Order Dismissing Complaint Under 28 U.S.C. § 1915(g) and Enjoining Plaintiff from Filing Future Complaints Without Prior Authorization,” *Edwards v. Hofbauer*, No. 96-CV-74292-DT (E.D. Mich. Oct. 31, 1996) (A copy of Judge Zatkoff’s order is attached to this order). As of October 31, 1996, Petitioner had been granted *in forma pauperis* status in forty lawsuits. *Id.* at 2. Only three of Petitioner’s thirty-nine civil rights complaints were not dismissed before service. *Id.* at 3. All four of Petitioner’s habeas corpus petitions were summarily dismissed pursuant to Rule 4 of the Rules Governing Section 2254 Cases. *Id.* Judge Zatkoff found that Petitioner’s “history of unsubstantiated and vexatious litigation amounts to continued abuse of his *in forma pauperis* status.” *Id.* Judge Zatkoff, therefore, enjoined Petitioner from filing any additional *in forma pauperis* lawsuits in this District without leave of court. *Id.* at 4. In addition, Judge Zatkoff ordered that any new complaint or petition filed by Petitioner must be accompanied by:

- (1) an application for permission to file the pleading; and
- (2) an affidavit demonstrating that plaintiff’s allegations have merit and that they are not a repetition of plaintiff’s previous complaints or petitions.

Id.

In his current document, Petitioner seeks permission to file a new lawsuit, but does not clearly specify the basis of the lawsuit. Further, Petitioner has not satisfactorily averred that his lawsuit has merit and that his allegations are not a repetition of any of his previous complaints or petitions. Thus, the court is not persuaded that Petitioner is entitled to file a new lawsuit *in forma pauperis*.

II. CONCLUSION

IT IS ORDERED that Petitioner's September 13, 2005 request to file a lawsuit *in forma pauperis* [Dkt. #11] is DENIED.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 18, 2005

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 18, 2005, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522